

§ 702.303

of this section, and shall promptly notify the appropriate State official of its decision to reclassify.

[65 FR 8584, Feb. 18, 2000, as amended at 65 FR 44974, July 20, 2000; 65 FR 55439, Sept. 14, 2000]

§ 702.303 Prompt corrective action for “adequately capitalized” new credit unions.

Beginning on the effective date of classification as “adequately capitalized” or lower, an “adequately capitalized” new credit union must increase its net worth and transfer earnings to its regular reserve account in accordance with § 702.201, until it is “well capitalized.”

§ 702.304 Prompt corrective action for “moderately capitalized,” “marginally capitalized” or “minimally capitalized” new credit unions.

(a) *Mandatory supervisory actions by new credit union.* A new credit union which is “moderately capitalized,” “marginally capitalized,” or “minimally capitalized” (including by reclassification under § 702.302(d) must—

(1) *Earnings transfer.* Beginning on the effective date of classification as “moderately capitalized” or lower, increase net worth and quarterly transfer earnings to the credit union’s regular reserve account in an amount reflected in the credit union’s approved initial or revised business plan;

(2) *Submit revised business plan.* Submit a revised business plan pursuant to § 702.306 if either—

(i) The credit union’s net worth ratio has not increased consistent with its then-present approved business plan; or

(ii) The credit union has no then-present approved business plan; or

(iii) The credit union has failed to undertake any mandatory supervisory action prescribed in this paragraph; and

(3) *Restrict member business loans.* Beginning the effective date of classification as “moderately capitalized” or lower, not increase the total dollar amount of member business loans (defined as loans outstanding and unused commitments to lend) as provided in § 702.202(a)(4).

(b) *Discretionary supervisory actions by NCUA.* Subject to the applicable proce-

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dures set forth in subpart L of part 747 of this chapter for issuing, reviewing and enforcing directives, the NCUA Board may, by directive, take one or more of the actions prescribed in § 702.204(b) if the credit union’s net worth ratio has not increased consistent with its then-present business plan, or the credit union has failed to undertake any mandatory supervisory action prescribed in paragraph (a) of this section.

(c) *Discretionary conservatorship or liquidation.* Notwithstanding any other actions required or permitted to be taken under this section, the NCUA Board may place a new credit union which is “moderately capitalized,” “marginally capitalized” or “minimally capitalized” (including by reclassification under § 702.302(d)) into conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), or into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(i), provided that the credit union has no reasonable prospect of becoming “adequately capitalized.”

§ 702.305 Prompt corrective action for “uncapitalized” new credit unions.

(a) *Mandatory supervisory actions by new credit union.* If a federally-insured new credit union either remains “uncapitalized” beyond the time period provided in its initial business plan (approved at the time the credit union’s charter was granted), or subsequently declines to that category from a higher category after the expiration of that period, it must—

(1) *Earnings transfer.* Increase net worth and quarterly transfer earnings to the credit union’s regular reserve account in an amount reflected in the credit union’s approved initial or revised business plan;

(2) *Submit revised business plan.* Within 90 days of the effective date of classification as “uncapitalized” as provided in paragraph (a) of this section, or such shorter period as the NCUA Board specifies, submit a revised business plan pursuant to § 702.306 providing for alternative means of funding the credit union’s earnings deficit; and (3) *Restrict member business loans.* Not increase the total amount of member

business loans (defined as loans outstanding and unfunded commitments to lend) as provided in § 702.202(a)(4).

(b) *Discretionary supervisory actions by NCUA.* Subject to the procedures set forth in subpart L of part 747 of this chapter for issuing, reviewing and enforcing directives, the NCUA Board may, by directive, take one or more of the actions prescribed in § 702.204(b) if the credit union's net worth ratio has not increased consistent with its then-present business plan, or the credit union has failed to undertake any mandatory supervisory action prescribed in paragraph (a) of this section.

(c) *Mandatory liquidation or conservatorship.* Notwithstanding any other actions required or permitted to be taken under this section, the NCUA Board—

(1) *Plan not submitted.* May place into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(ii), or conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), an “uncapitalized” new credit union which fails to submit a revised business plan within the time provided under paragraph (a)(2) of this section; or

(2) *“Uncapitalized” after 90 days.* Must place into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(ii), or conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), an “uncapitalized” new credit union which remains “uncapitalized” ninety (90) calendar days after the date the NCUA Board approved the revised business plan submitted by the credit union pursuant to paragraph (a)(2) of this section, unless the credit union documents to the NCUA Board why it is viable and has a reasonable prospect of becoming “adequately capitalized.”

§ 702.306 Revised business plans for new credit unions.

(a) *Schedule for filing—*(1) *Generally.* A “moderately capitalized,” “marginally capitalized” or “minimally capitalized” new credit union must file a written revised business plan (RBP) with the appropriate Regional Director and, if State-chartered, with the appropriate State official within 30 calendar days following the effective date (per § 702.101(b)) of the credit union's failure to meet a quarterly net worth target prescribed in its then-present business plan, unless the NCUA Board notifies

the credit union in writing that its RBP is to be filed within a different period, or that the NCUA Board is waiving the requirement that the credit union file an RBP. An “uncapitalized” new credit union must file an RBP within the time provided under § 702.305(a)(2).

(2) *Failure to timely file plan.* When a new credit union fails to file an RBP as provided under paragraph (a)(1) of this section, the NCUA Board shall promptly notify the credit union that it has failed to file an RBP and that it has 15 calendar days from receipt of that notice within which to do so.

(b) *Contents of revised business plan.* A new credit union's RBP must, at a minimum—

(1) Address changes, since the new credit union's current business plan was approved, in any of the business plan elements required for charter approval under Chapter 1, section IV.D. of NCUA's *Chartering and Field of Membership Manual* (IRPS 99-1), 63 FR 71998, 72019 (Dec. 30, 1998), or its successor(s), or for State-chartered credit unions under applicable State law;

(2) Establish a timetable of quarterly targets for net worth during each year in which the RBP is in effect so that the credit union becomes “adequately capitalized” and remains so for four (4) consecutive calendar quarters. If “complex,” the credit union is subject to a risk-based net worth requirement that may require a net worth ratio higher than six percent (6%) to become “adequately capitalized”;

(3) Specify the projected amount of earnings to be transferred quarterly to its regular reserve as provided under § 702.304(a)(1) or 702.305(a)(1);

(4) Explain how the new credit union will comply with the mandatory and discretionary supervisory actions imposed on it by the NCUA Board under this subpart;

(5) Specify the types and levels of activities in which the new credit union will engage;

(6) In the case of a new credit union reclassified to a lower category under § 702.302(d), specify the steps the credit union will take to correct the unsafe or unsound condition or practice; and

(7) Include such other information as the NCUA Board may require.